

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE PROCEDURES DIVISION**

**CHAPTER 1240-5-6
CONTENT OF THE HEARING**

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1240-5-6-.01 RULES OF EVIDENCE.

- (1) The agency shall admit and give probative effect to evidence admissible in a Court and may also admit evidence which preserves probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The agency shall give effect to the rules of privilege recognized by law and shall exclude evidence which in its judgment is irrelevant, immaterial, or unduly repetitious.
- (2) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the agency.
- (3) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge.
- (4) Every party shall have the right to present evidence, to make arguments, and to confront and cross-examine witnesses.

Authority: TCA §4-5-313. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed January 12, 1979; effective May 1, 1979.

1240-5-6-.02 EXAMINATION OF CASE FILE. Any party to a contested case shall have the right to examine Department manuals and the contents of the case file with respect to the matter being contested, and all documents and records used as evidence, at a reasonable time either before the date of the hearing or during the hearing. The case record and manuals shall not be removed from the local office. However, any party or his/her representative may copy entries or documents to be introduced at the hearing as supporting evidence.

Authority: TCA §4-5-311. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.

1240-5-6-.03 EX PARTE COMMUNICATION. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in an appeal shall not communicate directly or indirectly in connection with any issue involved in such proceeding with any person except upon notice and opportunity for all parties to participate, except an agency member may communicate with other members of the agency, members of the Attorney General's staff or his personal assistants.

Authority: TCA §4-5-304. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.

1240-5-6-.04 DISCOVERY. Any party to a contested case shall have the right to reasonable discovery pursuant to TCA §4-5-311.

Authority: TCA §4-5-311. **Administrative History:** Original rule filed January 12, 1979; effective May 1, 1979. Amendment filed December 17, 1982; effective March 16, 1983.